

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
DOCUMENT
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DATE FILED: 10/12/2023

ABRAHAM STIMMEL,

Plaintiff,

-against-

EQUIFAX INFORMATION SERVICES, LLC, and
NEW YORK COMMUNITY BANK,

Defendants.

1:23-cv-1610 (MKV)

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff filed a motion for default judgment with respect to Defendant New York Community Bank. [ECF No. 10]. Obtaining a default judgment is ordinarily a two-step process. *See Fed. R. Civ. P. 55*. First, the plaintiff must have the Clerk of Court “enter the [opposing] party’s default” pursuant to Rule 55(a). *See Fed. R. Civ. P. 55(a)*. Then, the party may move for a default judgment from the Court pursuant to Rule 55(b). *Fed. R. Civ. P. 55(b)*. “[T]he decision to grant a motion for a default judgment lies in the sound discretion of the trial court.” *O’Callaghan v. Sifre*, 242 F.R.D. 69, 73 (S.D.N.Y. 2007) (citing *Shah v. N.Y. Dep’t of Civil Serv.*, 168 F.3d 610, 615 (2d Cir. 1999)).

The Clerk did not enter a certificate of default in this case and a default judgment may, therefore, not issue. *See Fed. R. Civ. P. 55*; *see also* Individual Rules of Practice in Civil Cases Attachment A.1. Moreover, among other things, the motion is not accompanied by a proposed form of judgment or a proposed order to show cause. *See* Individual Rules of Practice Attachment A.

Accordingly, for the foregoing reasons, the motion is DENIED without prejudice. The Clerk of Court is further requested to terminate docket entry 10.

SO ORDERED.

Dated: October 12, 2023
New York, New York

Mary Kay Vyskocil
HON. MARY KAY VYSKOCIL
United States District Judge